

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

-----X

R.VL.,

Plaintiff,

COMPLAINT

-against-

DIOCESE OF ALBANY, ST. COLMAN'S HOME, SISTERS OF
THE PRESENTATION OF THE BLESSED VIRGIN MARY,
COUNTY OF ALBANY, ALBANY COUNTY DEPARTMENT
FOR CHILDREN, YOUTH AND FAMILIES and NEW YORK
STATE OFFICE OF CHILDREN AND FAMILY SERVICES,

Index No. _____

Defendants.

-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, R.VL., by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

INTRODUCTION

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when he was approximately four (4) to ten (10) years old, was regularly and continually sexually assaulted by Father Flynn at St. Colman's Home from approximately 1947 to 1953. Plaintiff was placed in St. Colman's Home by the County of Albany, Albany County Department for Children, Youth and Families and New York State Office of Children and Family Services and/or their predecessor agencies/departments. St. Colman's Home was owned, operated, maintained, inspected, and/or staffed by the Diocese of Albany and Sisters of the Presentation of the Blessed Virgin Mary.

PARTIES, JURISDICTION AND VENUE

VOICE FOR VICTIMS
HERMAN
T A T A T

1

1. Plaintiff is a citizen and resident of the State of Florida. Plaintiff brings this Complaint anonymously because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if his identity as a victim of child sexual abuse were to become publicly known.

2. Defendant, DIOCESE OF ALBANY (hereafter referred to as the "DIOCESE" or the "DIOCESE OF ALBANY"), is a religious institution and organization with principal offices located at 40 N. Main Avenue, #4, Albany, New York 12203. The DIOCESE OF ALBANY controls all Catholic religious, pastoral and educational functions in the counties of Albany, Columbia, Delaware, Fulton, Greene, southern Herkimer, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, and Washington, including 126 parishes, 4 apostolates, and 157 worship sites. Defendant DIOCESE controls all Catholic institutions ministering within its jurisdiction, including Defendant ST. COLMAN'S HOME. Any Catholic institution ministering within the DIOCESE's territory may only do so within the authority of the DIOCESE. The DIOCESE is a citizen and resident of the State of New York.

3. Defendant, ST. COLMAN'S HOME (hereafter referred to as the "ST. COLMAN'S HOME") was a Catholic orphanage located at 11 Haswell Rd, Watervliet, New York 12189 within the DIOCESE OF ALBANY. The orphanage is operated by Defendants SISTERS OF THE PRESENTATION OF THE BLESSED VIRGIN MARY and the DIOCESE OF ALBANY. The orphanage is located within the jurisdiction of the DIOCESE OF ALBANY and is subject to the DIOCESE's control.

4. Defendant, SISTERS OF THE PRESENTATION OF THE BLESSED VIRGIN MARY (hereafter referred to as the "SISTERS OF THE PRESENTATION") is a religious order

within the Catholic Church with their principal place of business located at 84 Presentation Way, New Windsor, New York 12553. SISTERS OF THE PRESENTATION operate charitable institutions, such as ST. COLMAN'S HOME, within the DIOCESE OF ALBANY's territory and are subject to the control of the DIOCESE OF ALBANY. SISTERS OF THE PRESENTATION is a citizen and resident of the State of New York.

5. Defendant, COUNTY OF ALBANY (hereinafter referred to as "COUNTY"), is a political subdivision of the State of New York. At all relevant times, COUNTY was responsible for the care and safety of the children in its physical and/or legal custody, care and control. COUNTY is a citizen and resident of the State of New York.

6. Defendant, ALBANY COUNTY DEPARTMENT FOR CHILDREN, YOUTH AND FAMILIES (hereinafter referred hereto as "DCF") is a political subdivision or agency of the COUNTY. DCF is responsible for providing foster care services for children and recruits, trains and certifies prospective foster and adoptive parents for children in foster care placement. DCF is a citizen and resident of the State of New York.

7. Defendant, NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES (herein after referred hereto as "OCFS") is a state agency organized and existing under the laws of the State of New York. OCFS was formed by Executive Order pursuant to the Welfare Reform Act of 1997 as a merger of the New York Division for Youth and Department of Social Welfare. OCFS and its predecessor agencies were responsible for programs and services involving foster care and provides oversight and services of regulated child care. OFCS is a citizen and resident of the State of New York.

8. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

9. Personal jurisdiction lies over Defendants as they are present and domiciled in the State of New York.

10. Venue of this action lies in Albany County as at least one Defendant has its principal place of business in Albany County and a substantial part of the events or omissions giving rise to this claim occurred in Albany County or one of the Defendants resides in Albany County.

BACKGROUND AND FATHER FLYNN'S SEXUAL ASSAULTS OF PLAINTIFF

11. Father Flynn was a priest and chaplain at ST. COLMAN'S HOME from approximately October 1943 to April 1958.

12. Prior to his arrival at ST. COLMAN'S HOME, Plaintiff was physically abused by his adoptive parents. In approximately 1947, when Plaintiff was approximately four (4) years old, he was sent to ST. COLMAN'S HOME by defendants COUNTY, DFS, and OCFS and/or their predecessor agencies/departments.

13. Shortly after his arrival, Plaintiff was sexually assaulted and abused by Father Flynn.

14. The acts of sexual assault and abuse committed by Father Flynn included, but was not limited to, fondling Plaintiff's penis, forced touching of Father Flynn's penis, masturbating in front of Plaintiff, sodomizing Plaintiff, and rape. Additionally, Plaintiff sustained serious and traumatic physical abuse by Sister Regina and other nuns at ST. COLMAN'S HOME.

15. The acts of sexual abuse committed by Father Flynn occurred on the premises of ST. COLMAN'S HOME. Father Flynn often wore his priest garb during the sexual assaults and abuse of Plaintiff.

NOTICE – FORESEEABILITY

16. Upon information and belief, Father Flynn was at all relevant times a serial sexual predator who sexually abused multiple children during his employment by ST. COLMAN'S HOME and within the DIOCESE. ..

17. At all relevant times, the Defendants knew or in the exercise of reasonable care should have known that Father Flynn had a propensity for the conduct which caused injury to Plaintiff, particularly that he had a propensity to engage in the sexual abuse of children.

18. At all relevant times, it was reasonably foreseeable to the Defendants that Father Flynn would commit acts of child sexual abuse or assault on children.

19. At all relevant times, the Defendants knew or should have known that Father Flynn was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his ministry, counsel, care and/or protection.

20. With such actual or constructive knowledge, the Defendant's acts and omissions provided Father Flynn with the opportunity to commit foreseeable acts of child sexual abuse or assault on Plaintiff.

NOTICE – DIOCESE'S CONCEALMENT OF ACTS OF SEXUAL ABUSE BY PRIESTS

21. The Bishop of the DIOCESE at all relevant times knew that priests of the DIOCESE, under his supervision and control, were grooming and sexually molesting children with whom the priests would have contact in their ministry and pastoral functions. At all relevant times, the Bishop knew that this was a widespread, ubiquitous and systemic problem in the DIOCESE, involving many priests and numerous victims.

22. Despite receiving credible allegations of child sexual abuse against priests, the Defendants acted to conceal these allegations in an effort to avoid scandal and accountability.

23. This concealment was in accordance with a policy of the DIOCESE, as agent, and the Holy See, as principal. In 1922, the Holy See released a confidential document to its Bishops and other officials of Catholic organizations regarding the handling of cases of solicitation of sex in the confessional. This document mandated a specific procedure for Holy See's agents, including the Bishop of the DIOCESE, to use when a cleric abused children using the confessional. This document required strict secrecy. The 1922 document showed that the Holy See and its agents were fully aware that there was a systemic problem of clergy sexually molesting children using the confessional.

24. In 1962, the Holy See released the confidential document, *Instruction on The Manner of Proceeding in Cases of Solicitation* (The Vatican Press, 1962) (hereinafter referred to as "*Crimen Sollicitationis*"). The heading of the document states, "From the Supreme and Holy Congregation of the Holy Office To All Patriarchs, Archbishops, Bishops and Other Diocesan Ordinaries 'Even of the Oriental Rite,'" and contains specific instructions regarding the handling of child sex abuse by clergy. According to the document itself, it is an "instruction, ordering upon those to whom it pertains to keep and observe it in the minutest detail." *Crimen Sollicitationis* at paragraph 24.

25. The 1962 document reinforced that the Holy See and its agents to whom the document was directed had knowledge that there was a systemic problem of Catholic clergy sexually molesting children using the confessional.

26. At the same time, the Holy See was involved in the formation of secret facilities in the United States where sexually offending clergy would be sent for short periods of time. In 1962-63, Fr. Gerald Fitzgerald reported to the Pope on the problem of abuse of children by clergy and expressed concerns if these priests were returned to active duty.

27. Fr. Fitzgerald's reports were kept secret under the Holy See's standing policy to avoid scandal at all costs. Its recommendation was ignored, however, and instead the Holy See made a choice to return known offending priests to active duty. At this point, it is clear that the Holy See and its agents, including the DIOCESE, knew they had a widespread problem of clergy sexually molesting minors, and they participated in the creation and the operation of facilities in the United States where sexually offending clergy could be sent before they were moved to another parish to work and potentially abuse again.

28. The Holy See's policy of secrecy under penalty of immediate removal from the organization (excommunication) for all involved in an accusation of child sexual abuse created a shroud of secrecy insulating priests from consequence. Through this policy and others, the Holy See and its agents, including the DIOCESE, knowingly allowed, permitted and encouraged child sex abuse by the DIOCESE's priests.

29. The Holy See mandates secrecy for all those involved, including agents and itself, in handling allegations of sexual abuse. Penalties for child sexual abuse include an order to move offending priests to other locations once they have been determined to be "delinquent." In response to allegations, the document mandates that supplementary penalties include: "As often as, in the prudent judgment of the Ordinary, it seems necessary for the amendment of the delinquent, for the removal of the near occasion [of soliciting in the future], or for the prevention of scandal or reparation for it, there should be added a prescription for a prohibition of remaining in a certain place." *Crimen Sollicitations* at paragraph 64. Under this policy of secrecy and transfers or reassessments, all involved are threatened with excommunication and, thus, damnation, if they do not comply.

30. The policy of secrecy and the severest of penalties for its violation were reiterated in documents issued by officials of the Holy See for the benefit of its agents, including the Bishop of the Diocese, in 1988 and 2001.

31. The policies and practices of the DIOCESE designed to conceal sexual abuse by clergy and protect it from scandal and liability included the following:

- a. transfer and reassignment of clergy known or suspected to abuse minors to deflect attention from reports or allegations of child sexual abuse;
- b. concealing from parishioners and even other clergy that a priest reassigned to their parish posed a danger of sexual abuse to children;
- c. failing to alert parishioners from the priest's prior assignments that their children were exposed to a known or suspected child molester;
- d. failing to report sexual abuse to criminal authorities; and
- e. otherwise protecting and fostering the interests of abusive clergy to the detriment of the victims and the community, for the purpose of avoiding scandal and public scrutiny.

32. Upon information and belief, the DIOCESE's transfers and reassignments of Father Flynn were pursuant to this policy and practice designed to conceal sexual abuse of clergy and protect the Diocese from scandal.

33. Upon information and belief, the DIOCESE continued to retain Father Flynn as a priest, with authority to act as a priest, without any disclosure of his heinous acts to the Catholic faithful and without any action to prevent or limit his contacts with children, pursuant to the above-described policy and in an effort to avoid scandal.

34. Indeed, the policy of secrecy and lack of consequences for the sexual abuse of children was perceived as a perquisite by clergy sex abusers. The Holy See and DIOCESE believed it to be perceived as a perquisite, which it condoned and used to its advantage in controlling priests.

35. Plaintiff was in a zone of foreseeable harm as a child in close proximity with Catholic clergy.

36. The Defendants was in the best position to protect against the risk of harm as it knew of the systemic problem and foreseeable proclivities of its Priests to sexually abuse children, particularly Father Flynn.

37. At all relevant times, while the Defendants had special and unique knowledge of the risk of child sexual abuse by its priests, such priests who would prey on children were outside the reasonable contemplation of the Catholic community and families who trusted priests to have access to their children.

38. Plaintiff had no opportunity to protect himself against a danger that was within the knowledge of the Diocese.

39. The Defendants knew a significant percentage of priests were using their status and position to identify, recruit, groom and sexually assault vulnerable children in the Church.

40. The Defendants knew that Father Flynn was using his status and position to identify, recruit, groom and sexually assault vulnerable children, including plaintiff.

41. All children engaging in Catholic activities within the DIOCESE and at ST. COLMAN'S HOME were in this manner placed at risk of child sexual abuse.

DUTY

42. At all material times, ST. COLMAN'S HOME and Plaintiff were in a special relationship, in which ST. COLMAN'S HOME owed Plaintiff a duty of reasonable care to protect him from foreseeable harm.

43. At all material times, ST. COLMAN'S HOME and Father Flynn were in a special relationship of employer-employee, in which ST. COLMAN'S HOME owed a duty to control the acts and conduct of Father Flynn to prevent foreseeable harm.

44. ST. COLMAN'S HOME owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under the physical and/or legal care, custody or in the presence of ST. COLMAN'S HOME. ST. COLMAN'S HOME's duties encompassed using reasonable care in the retention, supervision and hiring of Father Flynn and the duty to otherwise provide a safe environment for Plaintiff.

45. ST. COLMAN'S HOME had a duty to exercise reasonable care in the training of its employees in the prevention of sexual abuse and protection of the safety of children in its care.

46. ST. COLMAN'S HOME had a duty to establish and implement policies and procedures in the exercise of reasonable care for the prevention of sexual abuse and protection of the safety of the children in its care.

47. At all material times the DIOCESE, as principal, and ST. COLMAN'S HOME, as agent, were in an agency relationship, such that ST. COLMAN'S HOME acted on the DIOCESE's behalf, in accordance with the DIOCESE's instructions and directions on all matters, including those relating to personnel. The acts and omissions of ST. COLMAN'S HOME were subject to the DIOCESE's plenary control, and ST. COLMAN'S HOME consented to act subject to the DIOCESE's control.

48. At all material times, the DIOCESE and Plaintiff were in a special relationship, in which the DIOCESE owed Plaintiff a duty of reasonable care to prevent foreseeable harm.

49. At all material times, the DIOCESE and Father Flynn were in a special relationship of employer – employee, in which the DIOCESE owed a duty to control the acts and conduct of Father Flynn to prevent foreseeable harm.

50. The DIOCESE owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under the care, custody or in the presence of the DIOCESE. The DIOCESE's duties encompassed using reasonable care in the retention, supervision and hiring of Father Flynn and the duty to otherwise provide a safe environment for Plaintiff.

51. At all material times the SISTERS OF THE PRESENTATION, as principal, and ST. COLMAN'S HOME, as agent, were in an agency relationship, such that ST. COLMAN'S HOME acted on the SISTERS OF THE PRESENTATION's behalf, in accordance with the SISTERS OF THE PRESENTATION's instructions and directions on all matters, including those relating to personnel. The acts and omissions of ST. COLMAN'S HOME were subject to the SISTERS OF THE PRESENTATION's control, and ST. COLMAN'S HOME consented to act subject to the Sisters of the Presentation's control.

52. At all material times, the SISTERS OF THE PRESENTATION and Plaintiff were in a special relationship, in which the SISTERS OF THE PRESENTATION owed Plaintiff a duty of reasonable care to prevent foreseeable harm.

53. At all material times, the SISTERS OF THE PRESENTATION and Father Flynn were in a special relationship of employer – employee, in which the SISTERS OF THE

PRESENTATION owed a duty to control the acts and conduct of Father Flynn to prevent foreseeable harm.

54. The SISTERS OF THE PRESENTATION owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the physical and/or legal care, custody or in the presence of the SISTERS OF THE PRESENTATION. The SISTERS OF THE PRESENTATION's duties encompassed the retention and supervision of Father Flynn and otherwise providing a safe environment for Plaintiff.

55. At all times relevant and material hereto, defendant COUNTY was responsible for providing protection and safety and to insure the well-being of Albany County's children by providing foster care services for children who needed same.

56. At all times relevant and material hereto, defendant COUNTY had a non-delegable duty to use reasonable care in the investigation, licensing, supervision and/or monitoring of foster care facilities, homes and/or families with whom it places foster children and/or to develop or implement programs, guidelines, procedures and/or training to prevent the abuse of foster children placed within foster care facilities, homes and/or families.

57. At all times relevant and material hereto, defendant DCF was a department of defendant COUNTY and was responsible for providing protection and safety and to insure the well-being of Albany County's children by providing foster care services for children who needed same.

58. At all times relevant and material hereto, defendant DCF provided child welfare, child protective and child care services by contracting with private not-for-profit organizations to provide foster care services.

59. By reason of the foregoing, defendant COUNTY was and is vicariously liable for acts and omissions of defendant DCF and the private non-profit organizations with which defendant DCF contracted with or otherwise approved to provide foster care services.

60. At all times relevant and material hereto, defendant DCF provided the above-mentioned child welfare, child protective and child care services as a department of defendant COUNTY.

61. At all times relevant and material hereto, defendant DCF was the physical and/or legal guardian of Plaintiff and owed Plaintiff a non-delegable duty of reasonable care to protect her from foreseeable harm.

62. At all times relevant and material hereto, defendant DCF owed a non-delegable duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under its care and custody. Defendant DCF's duties encompassed using reasonable care in the supervision of children in its custody and control, as well as a duty to use reasonable care in the retention and supervision of foster parents.

63. At all times relevant and material hereto, defendant DCF had a non-delegable duty to use reasonable care in the investigation, licensing, supervision and/or monitoring of foster care facilities, homes and/or families with whom it places foster children.

64. At all times relevant and material hereto, defendant DCF had a non-delegable duty to exercise reasonable care in the training of employees, case workers, and/or agents in the prevention of sexual abuse and protection of the safety of children in its care, custody and/or control.

65. At all times relevant and material hereto, defendant DCF had a non-delegable duty to establish and implement policies and procedures in the exercise of reasonable care for the

prevention of sexual abuse and protection of the safety of children in its care, custody and/or control.

66. Defendant DCF is legally responsible for the acts, omissions and negligence of the entities in which it contracts or otherwise approves, accredits, recruits or vets to render and perform foster care services.

67. Defendant DCF is legally responsible for the acts, omissions and negligence of the entities carrying out its non-delegable duties.

68. At all times relevant and material hereto, defendant OCFS or its predecessors, at all relevant times, were responsible for foster care throughout New York State, including compliance with the Federal and State Constitution, federal statutes, and state statutes and regulations, particularly those concerning the safety of children in foster care, protection of their right to bodily integrity, and their right to be free from sexual assault and abuse. These duties were shared with defendants DIOCESE, ST. COLMAN, SISTERS OF PRESENTATION, COUNTY and DCF.

69. At all times relevant and material hereto, defendant OCFS was the physical and/or legal guardian of Plaintiff and owed Plaintiff a non-delegable duty of reasonable care to protect her from foreseeable harm.

70. At all times relevant and material hereto, defendant OCFS owed a non-delegable duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under its care and custody. Defendant OCFS's duties encompassed using reasonable care in the supervision of children in its custody and control, as well as a duty to use reasonable care in the retention and supervision of foster parents.

71. At all times relevant and material hereto, defendant OCFS had a non-delegable duty to use reasonable care in the investigation, licensing, supervision and/or monitoring of foster care facilities, homes and/or families with whom it places foster children.

72. At all times relevant and material hereto, defendant OCFS had a non-delegable duty to exercise reasonable care in the training of employees, case workers, and/or agents in the prevention of sexual abuse and protection of the safety of children in its care, custody and/or control.

73. At all times relevant and material hereto, defendant OCFS had a non-delegable duty to establish and implement policies and procedures in the exercise of reasonable care for the prevention of sexual abuse and protection of the safety of children in its care, custody and/or control.

74. Defendant OCFS is legally responsible for the acts, omissions and negligence of the entities in which it contracts or otherwise approves, accredits, recruits or vets to render and perform foster care services.

75. Defendant OCFS is legally responsible for the acts, omissions and negligence of the entities carrying out its non-delegable duties.

76. Defendants each had the following non-delegable duties with regard to children in foster care, including Plaintiff:

- a. To evaluate and investigate all reports of child abuse and/or neglect;
- b. To visit children in foster home placements in accordance with the requirements for children in custody;
- c. To investigate all relevant conditions of the foster home that might affect the child;

- d. To report any violations of the home's operating license or requirements;
- e. To ensure that foster children residing in a foster home are supervised at all times by authorized adult caregivers;
- f. To continually assess the adequacy and safety of a child's particular placement;
- g. To make appropriate referrals for evaluations or services, and provide each child in foster care with quality services to protect his or her safety and health;
- h. To establish all necessary plans of care;
- i. To report all known incidents of sexual abuse or aggression occurring in the foster home;
- j. To ensure that foster children were not left in dangerous conditions, including being subjected to sexual, emotional or physical abuse.
- k. To ensure that each child in foster care is not maintained in custody longer than is necessary to accomplish the purpose of custody;
- l. To provide each child in foster care who has been freed for adoption with meaningful and appropriate adoption services, including evaluation of the child's placement and pre-placement needs, recruitment of and home study for prospective adoptive parents, placement planning, supervision and post-adoption services; and
- m. To ensure that children are provided a non-threatening environment for candid assessments of their living situation with care managers or other supervisory personnel, to assure that incidents of abuse, misconduct or violations of rights may be reported without fear of repercussion or not being believed.

BREACH

77. Defendants breached their duties by (i) failing to protect Plaintiff from sexual assault and lewd and lascivious acts committed by their agent and employee; (ii) failing to establish policies and procedures that were adequate to protect the health, safety and welfare of children and protect them from sexual abuse; (iii) failing to implement and enforce policies and procedures that were adequate to protect the health, safety and welfare of children and protect them from sexual abuse; (iv) hiring, retaining and/or failing to supervise Father Flynn when it knew or should have known that he posed a substantial risk of harm to children; (v) failing to adequately monitor and supervise children such as Plaintiff on the premises of St. Colman's Home; (vi) failing to remove Plaintiff from the care, custody and/or control of Father Flynn and St. Colman's Home when they knew or should have known that Father Flynn posed a substantial risk of harm to children such as Plaintiff; (vii) failing to adequately hire and train employees, agents and case workers; (viii) concealing their knowledge that Father Flynn was unsafe; and (ix) failing to conduct a background check or investigation of Father Flynn.

78. At all relevant times, Defendants had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

79. At all relevant times, Defendants created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

80. Defendants concealed their knowledge that Father Flynn was unsafe and failed to adopt policies and procedures that would protect children and reduce the risk of child sexual abuse by their employees.

81. Defendants failed to warn Plaintiff and similarly situated individuals that they were at risk of sexual abuse.

NATURE OF CONDUCT ALLEGED

82. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53); and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

83. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendants acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Father Flynn, to permit Father Flynn's unfettered access to children.

COUNT I - NEGLIGENCE
(against Defendant DIOCESE)

84. Plaintiff repeats and realleges Paragraphs 1 through 83 above.

85. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

86. Defendant's acts and conduct showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

COUNT II - NEGLIGENCE
(against Defendant ST. COLMAN'S HOME)

87. Plaintiff repeats and realleges Paragraphs 1 through 83 above.

88. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries,

shame, humiliation and the inability to lead a normal life.

89. Defendant's acts and conduct showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

COUNT III - NEGLIGENCE
(against Defendant SISTERS OF PRESENTATION)

90. Plaintiff repeats and realleges Paragraphs 1 through 83 above.

91. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

92. Defendant's acts and conduct showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

COUNT IV - NEGLIGENCE
(against Defendant COUNTY)

93. Plaintiff repeats and realleges Paragraphs 1 through 83 above.

94. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

95. Defendant's acts and conduct showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

COUNT V - NEGLIGENCE
(against Defendant DCF)

96. Plaintiff repeats and realleges Paragraphs 1 through 83 above.

97. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

98. Defendant's acts and conduct showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

COUNT VI - NEGLIGENCE
(against Defendant OCFS)

99. Plaintiff repeats and realleges Paragraphs 1 through 83 above.

100. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

101. Defendant's acts and conduct showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

Dated: New York, New York
November 19, 2019

Respectfully submitted,

HERMAN LAW
434 W. 33rd St., Penthouse
New York, NY 10001
Tel: 212-390-0100

By:

Jeff Herman
jherman@hermanlaw.com
Daniel G. Ellis
dellis@hermanlaw.com
Stuart S. Mermelstein
smermelstein@hermanlaw.com